1 2 3 4 5 6 7	BRIAN M. DAUCHER, Cal. Bar No. 17 ROBERT S. BEALL, Cal. Bar. No. 1320 JOSEPH H. TADROS, Cal. Bar. No. 239 ASHLEY E. MERLO, Cal. Bar No. 2479 SHEPPARD, MULLIN, RICHTER & H. A Limited Liability Partnership Including Professional Corporations 650 Town Center Drive, 4th Floor Costa Mesa, California 92626-1993 Telephone: (714) 513-5100 Facsimile: (714) 513-5130 bdaucher@sheppardmullin.com jtadros@sheppardmullin.com	016 0379 097
8	Attorneys for Defendants	
9		
10	UNITED STATES DISTRICT COURT	
11	CENTRAL DISTRICT OF CALIFORNIA	
12		
13	TRAFFICSCHOOL.COM, INC., a	Case No. CV 06-7561 PA (CWx)
14	California corporation; DRIVERS ED DIRECT, LLC., a California limited	The Hon. Percy Anderson
15	liability company,  Plaintiffs,	DECLARATION OF RAJ LAHOTI IN SUPPORT OF EX PARTE APPLICATION FOR INTERIM
16	v.	STAY OF INJUNCTION AND MOTION TO STAY IN
17 18	EDRIVER, INC., ONLINE GURU, INC., FIND MY SPECIALIST, INC.,	INJUNCTION
19	and SERIOUSNET, INC., California corporations; RAVI K. LAHOTI, an	Hearing Information – Motion for Stay: Date: October 14, 2008
	individual; RAJ LAHOTI; an individual; DOES 1 through 10,	Time: 1:30 p.m. Crtrm.: 15
21	Defendants.	Complaint Filed November 28, 2006
22		Complaint Filed November 28, 2006 Trial Commenced: November 6. 2007
23		
24		
25		
26		
27		
28		

W02-WEST:3AAE1\401008394.1

LAHOTI DECLARATION IN SUPPORT OF STAY OF INJUNCTION

11

## **DECLARATION OF RAJ LAHOTI**

I, Raj Lahoti, hereby declare the following:

- 1. I am the Chief Executive Officer and President of Online Guru, Inc. and Edriver, Inc., defendants in this matter. I have personal knowledge of the facts hereinafter stated and, if sworn as a witness, could and would testify competently thereto.
- 2. On August 29, 2008, the day after receiving a copy of the injunction, we employed the splash page required by the Court, and now our business is in significant trouble given the Court's requirement.
- 3. Following the Court's June 2008 Findings of Fact and Conclusions of Law and Proposed Permanent Injunction, we have employed the following additional measures, clearly visible to each and every visitor, to ensure that visitors to the DMV.ORG website are aware that they were visiting a privately-owned, independent website:
  - (a) a further disclaimer at the top of each webpage, highlighted in yellow and in 16 point font stating: "DMV.ORG is a <u>privately owned website</u> that is <u>not</u> owned or operated by any government agency."
  - (b) visitors to DMV.ORG wishing to send a communication to the website must click through an acknowledgement checkbox further affirming to the user the privately-owned nature of the site and asking that they not send us personal/confidential information such as drivers license and social security numbers.
  - (c) use of "unofficial" or "independent" in search results (sponsored and, where possible, organic) related to traffic school or driver's eduction.
  - (d) removal of any language on DMV.ORG that could be construed as a possible endorsement of a traffic school or driver's education advertiser.

- 4. As a result, since we have placed these additional disclaimers in June 2008, we have received nearly no emails that include personal information.
- 5. On August 29, 2008, the day after receiving a copy of the injunction, we employed the splash page required by the Court and our initial data is showing the immediate loss of hundreds of thousands of visitors to our site before ever seeing our content.
- 6. Upon launching the splash page, we briefly eliminated some of the proactive disclaimers we had put in place. Immediately, we started receiving significantly more e-mails and we started to get more personal information within those e-mails compared to when we used our own proactive measures. We subsequently put back in place all of the proactive measures we had previously implemented.
- 7. DMV.ORG's profits are derived from advertising on the website, and with the significant cut in consumer traffic resulting from the incorporation of the splash page, advertising revenue has declined greatly, forcing the company under severe financial distress and will result in even greater impacts over time due to the ongoing negative perceptions of the splash page on the DMV.ORG brand and usability. In response, we have immediately cut advertising expenditures significantly to try to maintain profitability, but this is still proving to be very difficult. And, absent a prompt stay, we will mostly likely have to layoff a significant number of our 19 employees.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that I executed this declaration on September 10, 2008 in San Diego, California.

RAJIAHOT